

## REMARKS

By the present amendment, Applicant has cancelled Claims 1-8, and added Claims 9-14. Claims 9-14 remain pending in the present application. Claims 9 and 13 are independent claims.

Applicant appreciates the courtesies extended to Applicant's representative during the personal interview held September 22, 2004. The present response summarizes the agreement reached. At the interview a proposed amendment was presented for discussion. Proposed new Claim 9 set forth a foldable stand for musical instruments that includes a first and second inverted U-shaped members, a pair of pivotal connectors, and a pair of locking hinges. The first inverted U-shaped member defines an upper portion, a middle portion, and a lower portion. The upper portion is defined as including a cross bar member. The middle portion is set forth as having a pair of legs extending parallel from the cross bar member of the upper portion, and the lower portion is characterized as having a pair of feet, each foot extending linearly from one of the legs.

The second inverted U-shaped member defines an upper portion, a middle portion, and a lower portion. The upper portion is set forth as having a cross bar member; the middle portion as having a pair of legs extending parallel from the cross bar member of the upper portion; and the lower portion as having a pair of feet. Each foot is defined as extending linearly from each one of the legs and as having a perpendicularly extending end piece. The proposed claimed stand further includes pair of pivotal connectors and a pair of lockable hinges. The pivotal connectors are characterized as connecting the first and the second inverted U-shaped member, and each one of the pivotal connectors forms a pivot between each the middle portion and the lower portion of the first and the second U-shaped members. Each one of the hinges includes a first end, a second end and a

central pivot. the first end of each hinge is connected to the first U-shaped member at a point between the upper portion and the middle portion. The second end of each hinge is connected to the second U-shaped member at a point between the upper portion and the middle portion. As set forth by the proposed new claim, the central pivot allows the first and second hinges to be in a folded position, and the first and the second U-shaped members are adapted to fold flat, such that the first U-shaped member circumscribes the second U-shaped member. As stated by the proposed claim, when the hinges are in a locked position, the feet of the first U-shaped member, and the upper portion of the second U-shaped member rest on a support surface, the upper portion of the first U-shaped member, and the feet and perpendicularly extending end pieces of the second U-shaped member form a cradle to support a musical instrument.

Arguments were advanced that the proposed amendment distinguished the claimed embodiment over the applied prior art references. Specifically, the applied prior art references to Hardy, Bolis, and Morse did not anticipate the structure as set forth in the proposed new claim. Also, it was discussed that each of the alleged applied combinations of prior art references, i.e., Morse and Pirchio; Hardy and Pirchio; and Dalbo and Bolis, did not render the claimed structure obvious.

The Examiner indicated that the claims presented in the proposed amendment appeared to define Applicant's embodiment over the applied prior art rejections. Absent any newly uncovered and applied reference, the Examiner indicated that the claims appeared allowable over the applied prior art of record.

In the recent Office Action, the Examiner rejected Claims 1-3 under 35 U.S.C. 102(b), as being anticipated by Hardy. Claims 1-3 were rejected under 35 U.S.C. 102(b), as being anticipated by, or in the alternative as being obvious over Morse. Claims 1-3 were also rejected under 35

U.S.C. 102(b), as being anticipated by Bolis. The Examiner rejected Claims 5, 7 and 8 under 35 U.S.C. 103(a) as being unpatentable over Morse in view of Pirchio. Claims 5, 7 and 8 were also rejected under 35 U.S.C. 103(a) as being unpatentable over Hardy in view of Pirchio. The Examiner rejected Claims 1-4, and 6 under 35 U.S.C. 103(a) as being unpatentable over Dalbo in view of Bolis.

Applicant has cancelled original Claim 1-8 and has introduced new Claims 9-14. With regard to the newly introduced claims, Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

As noted during the interview, newly presented Claims 9-14 are distinguishable over the applied prior art references. Specifically, the Hardy patent does not anticipate independent Claims 9 and 13 because Hardy does not teach, *inter alia*, the perpendicularly extending ends of the legs of the second U-shaped member, the upper portion of the second U-shaped member as resting on a support surface, and the first U-shaped member as circumscribing the second U-shaped member when in the folded position.,

Also, the Bolis patent does not anticipate the structure of newly presented independent Claims 9 and 13 because Bolis does not disclose a first pivot connector between the first legs of the U-shaped members, and a second pivot connector between the second legs of the U-shaped members, such that the pivot connectors are disposed at the point between the middle and lower sections of the U-shaped members.

In addition, the Morse patent does not anticipate, nor render obvious the structure of newly presented independent Claims 9 and 13 because Morse does not disclose the perpendicularly extending end portions forming a cradle to support a musical instrument.

Further, the combination of Morse in view of Pirchio fails to render obvious the structure of the newly presented independent Claims 9 and 13 because there is no guidance or motivation found in these references that would have led one of ordinary skill in the art to arrive at Applicant's unique combination of structural elements, as recited in the claims. Likewise, there appears no motivation or guidance for combining Hardy in view of Pirchio and Dalbo in view of Bolis in the manner suggested by Examiner. Moreover, even if the references are properly combinable, one of ordinary skill in the art would not be capable of arriving at a stand having the combination of structural elements recited by the present claims without recourse to Applicant's own disclosure. Applicant respectfully submits that for at least these reasons, Claims 9-14 are allowable over the prior art applied of record.

The claims in this application have been revised to more particularly define applicants' unique construction in view of the prior art of record. Reconsideration of the claims in light of the amendments and for the following reasons is respectfully requested.

For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,



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